IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY

TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 1737 of 1999

Between:

Desi Raju Hanumantha Rao S/o.Late D.S.Parameshwara Rao, aged 54 years, R/o.10-2-287/1/1/2 , Shantinagar , Hyderabad.

..... PETITIONER

AND

A.P.State Agro Industries Development Corpn Ltd Rep by its Vice Chairman & M.D, AC.Guards , Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ , order or direction declaring the impugned proceedings No. Pers/AM(P)/4293/73-Vol: ii Dt; 12-1-1999 including the proceedings Vide Memo No.Pers/DM(P)/JMII/12714/96 Dt: 27-2-97 of the respondents herein illegal and arbitrary and consequently direct the respondents corporation to reinstate the petitioner into service or extend the voluntary Retirement Scheme benefits.

Counsel for the Petitioner:. Mrs. K. Udayasree

Counsel for the Respondent: . Mrs. P. Bala Rani,

The Court made the following :

O R D E R

This Writ Petition is filed seeking a Mandamus declaring the impugned proceedings No. Pers/AM(P)/4293/73-Vol:ii, dated 12.01.1999, including the proceedings vide Memo No. Pers/DM(P)/JMII/12714/96, dated 27.02.1997, of the respondent as illegal and arbitrary and consequently to direct the respondent to reinstate the petitioner into service or extend the benefits under voluntary retirement scheme.

It seems the Board of the respondent had taken a decision to identify the medically unfit persons after subjecting them to medical test by the concerned Medical Board and to decide as to whether they could be retired on medical grounds. In the process, the petitioners and some others were identified as medically unfit to hold the posts. The Medical Board which was constituted on 27.11.1996l opined insofar as the petitioner is concerned that he is unfit for duty and in addition to that he is also willing to retire voluntarily provided the Government rules are implemented, hence, he may be allowed to retire and ultimately the petitioner was retired from service on 28.02.1997 along with others on medical grounds. However, it is the case of the petitioner that instead of retiring him on grounds of medical unfitness, the respondent ought to have extended the benefit of voluntary retirement scheme available in the Government departments. That seems to be the request made by him and the same has been recorded in the medical report, dated 27.11.1996. However, since the petitioner was found unfit even otherwise he was to be retired as per the resolution of the Board, therefore, the petitioner was retired compulsorily on medical grounds on 28.02.1997. Now, it is the case of the petitioner that since he gave an option for medical retirement only when the scheme available to the Government Departments is extended to him. Instead of extending Voluntary Retirement Scheme which was,

in fact, introduced in the Corporation on 28.06.1997, the petitioner is made to retire on medical grounds, thus, denying him the benefit of Voluntary Retirement Scheme introduced in the Corporation which is arbitrary and illegal.

In the counter-affidavit filed by the respondents, it is asserted that the Board of Directors of the respondent-corporation in their 188th meeting held on 31.12.1998 have examined the issue of extending Voluntary Retirement Scheme to the employees who were discharged as "physically incapacitated" did not agree for extending the scheme with retrospective effect from 28.02.1997 on the date when the petitioner retired on medical grounds. The Voluntary Retirement Scheme is prospective in operation from 28.06.1997 only. Accordingly, the impugned order, dated 12.01.1999, was issued to the petitioner. It is also further asserted that insofar as the other persons, those who are referred to in the affidavit, their cases were re-examined by the Medical Board and it was found that they were, in fact, fit to be in the service of the Corporation. Therefore, their cases were later on considered for voluntary retirement. Whereas, in case of the petitioner, though, he was subjected to medical examination for the second time for the purpose of considering on par with others, the Medical Board unfortunately found him to be unfit to hold the post. Therefore, his case was not considered for reinstatement and also not considered for the purpose of treating him to have been retired under voluntary retirement scheme which was introduced in the Corporation with effect from 28.06.1997.

In view of the positive assertions made in the counter affidavit that the petitioner was also subjected to second medical examination for the purpose of considering him for extending with the Voluntary Retirement Scheme and he was found to be unfit and, therefore, the same was not extended to him. Under these circumstances, the writ petition is devoid of merits and is liable to be dismissed.

However, this will not preclude the petitioner from approaching the Commissioner under Disabilities Act and working out his remedies under the Act as to the illegal termination or compensation I n lieu of reinstatement, as per law.

Accordingly, the writ petition is dismissed. No order as to costs.

C.V. RAMULU, J

5TH July, 2005

vp

//**true copy**//

SECTION OFFICER

To

1. The Vice Chairman and Managing Director, A.P. State Agro Industries Development Corporation Ltd. A.C. Guards, Hyderabad

2. 2 C.D. copies